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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Nyle ELLIOTT

Group Art Unit: 3761

Serial No : 10/667,655

Examiner: Adam Marcetich

Filed : September 23, 2003

For : COLOSTOMY ALERT DEVICE and METHOD

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification dated September 16, 2008, Applicant encloses a replacement page 1 of Applicant's Appeal Brief setting forth that claims 1-12 and 21-24 are the claims which are "on appeal".

If any additional questions remain, please do not hesitate to contact the undersigned.

Respectfully submitted,

Stewart L. Gitler

Reg. No. 31,256

September 26, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Nyle ELLIOTT

Group Art Unit: **3761**

Serial No : **10/667,655**

Examiner: **Adam Marcetich**

Filed : **September 23, 2003**

For : **COLOSTOMY ALERT DEVICE and METHOD**

APPLICANT'S APPEAL BRIEF
UNDER 35 U.S.C. §41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

(1) REAL PARTY IN INTEREST

The real party in interest is Oakington Corporation, the assignee of the application.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

(3) STATUS OF CLAIMS

Claims 1-12 and 21-24 are rejected and are presently the claims which are on appeal; claim 13-20 are cancelled.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/667,655

Applicant(s)

ELLIOTT, NYLE S

Examiner

Adam, Marcetich

Art Unit

3761

SEP 26 2008

U.S. PATENT & TRADEMARK OFFICE

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 20 August 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

Section III Status of claims section does not identify the claims on appeal. Entire brief is not needed only the defective section.


SHAWN HINTON
PATENT APPEAL CENTER SPECIALIST